



**Billing Code 4333–15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[Docket No. FWS–R3–ES–2019–0107; FXES11130300000–201–FF03E00000]**

**Draft Environmental Assessment and Draft Habitat Conservation Plan; Receipt of an Application for an Incidental Take Permit, Blue Creek Wind Farm, Van Wert and Paulding Counties, Ohio**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received an application from Blue Creek Wind Farm, LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended, for its Blue Creek Wind Farm project. If approved, the ITP would authorize the incidental take of the Indiana bat and the northern long-eared bat. The applicant has prepared a draft habitat conservation plan (HCP), which is available for public review. We also announce the availability of a draft environmental assessment, which has been prepared in accordance with the requirements

of the National Environmental Policy Act. We request public comment on the application and associated documents.

**DATES:** We will accept comments received or postmarked on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** *Obtaining documents:* Electronic copies of the documents this notice announces will be available online in Docket No. FWS–R3–ES–2019–0107 at <http://www.regulations.gov>. Public comments will also be available online at <http://www.regulations.gov>.

Paper copies of the documents this notice announces will be available at the following libraries: Brumback Library, 215 W. Main St., Van Wert, OH 45891; and Paulding County Carnegie Library, 205 S. Main St., Paulding, OH 45879.

*Submitting comments:* Please specify whether your comment addresses the draft HCP, DEA, or any combination of the aforementioned documents, or other supporting documents. Please submit written comments by one of the following methods:

- *Online:* <http://www.regulations.gov>. Search for and submit comments on Docket No. FWS–R3–ES–2019–0107.
- *By hard copy:* Submit comments by U.S. mail or hand delivery to Public Comments Processing, Attn: Docket No. FWS–R3–ES–2019–0107; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: JAO/IN; Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** Megan Seymour, Wildlife Biologist, or Patrice Ashfield, Ohio Ecological Services Office Project Leader, via phone at 614–416–8993, via the Federal Relay Service at 800–877–8339, or via U.S. mail at the U.S. Fish and Wildlife Service, Ohio Field Office, 4625 Morse Road, Suite 104, Columbus, OH 43230.

**SUPPLEMENTARY INFORMATION:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Blue Creek Wind Farm, LLC (applicant), for an incidental take permit (ITP) under the Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*). If approved, the ITP would be for a 35-year period and would authorize incidental take of the endangered Indiana bat (*Myotis sodalis*) and the threatened northern long-eared bat (*Myotis septentrionalis*).

The applicant has prepared a draft habitat conservation plan (HCP), which covers the operation of the Blue Creek Wind Farm (project). The project consists of a wind-powered electric generation facility located in an approximately 40,426-acre area in Paulding and Van Wert Counties, Ohio. The draft HCP describes the following:

1. Permit duration;
2. Covered lands;
3. Covered species;
4. Project description and covered activities;
5. Environmental baseline and affected species;

6. Impact assessment and take authorization request for Indiana bats and northern long-eared bats;
7. Conservation plan, which includes the Biological Goals and Objectives, and measures to avoid, minimize, and mitigate the impact of the taking;
8. Monitoring and adaptive management;
9. Funding assurances;
10. Alternatives to the taking; and
11. Changed and unforeseen circumstances.

Under the National Environmental Policy Act (NEPA; 43 U.S.C. 4321 *et seq.*) and the ESA, the Service announces that we have gathered the information necessary to:

1. Determine the impacts and formulate alternatives for an EA related to:
  - a. Issuance of an ITP to the applicant for the take of the Indiana bat and the northern long-eared bat, and
  - b. Implementation of the associated HCP; and
2. Evaluate the application for ITP issuance, including the HCP, which provides measures to minimize and mitigate the effects of the proposed incidental take of the Indiana bat and the northern long-eared bat.

## **Background**

The Blue Creek project includes 152 operating 2.0-megawatt (MW) Gamesa G90 wind turbines with a total energy generating capacity of 304 MW. The project achieved commercial operation in June 2012. The need for the proposed action (i.e., issuance of

an ITP) is based on the potential that operation of the Blue Creek Wind Farm could result in take of Indiana bats and northern long-eared bats.

The HCP provides a detailed conservation plan to ensure that the incidental take caused by the operation of the project will not appreciably reduce the likelihood of the survival and recovery of the Indiana bat and northern long-eared bat, and provides mitigation to fully offset the impact of the taking. Further, the HCP provides a long-term monitoring and adaptive management strategy to ensure that the ITP terms are satisfied, and to account for changed and unforeseen circumstances.

### **Purpose and Need for Action**

In accordance with NEPA, the Service has prepared a draft environmental assessment (DEA) to analyze the impacts to the human environment that would occur if the requested ITP were issued and the associated HCP were implemented.

### **Proposed Action**

Section 9 of the ESA prohibits the “taking” of threatened and endangered species. However, provided certain criteria are met, the Service is authorized to issue permits under section 10(a)(1)(B) of the ESA for take of federally listed species when, among other things, such a taking is incidental to, and not the purpose of, otherwise lawful activities. Under the ESA, the term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect endangered and threatened species, or to attempt to engage in any such conduct. Our implementing regulations in title 50 of the Code of Federal Regulations define “harm” as an act which actually kills or injures wildlife, and

such act may include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

The HCP analyzes, and the ITP would authorize, take from killing of bats due to the operation of the Blue Creek project. If issued, the ITP would authorize incidental take consistent with the applicant's HCP and the ITP. To issue the ITP, the Service must find that the application, including its HCP, satisfies the criteria of section 10(a)(1)(B) of the ESA and the Service's implementing regulations at 50 CFR part 13 and § 17.22. If the ITP is issued, the applicant would receive assurances under the Service's No Surprises policy, as codified at 50 CFR 17.22(b)(5).

The applicant proposes to operate a maximum of 152 wind turbines and associated facilities for a period of 35 years in Paulding and Van Wert Counties, Ohio. The project consists of wind turbines, associated gravel pads and access roads, underground and aboveground electrical collection circuits, two substations, two permanent un-guyed meteorological towers, and an Operations and Maintenance Facility consisting of an approximately 5,000-square-foot building.

The draft HCP describes the impacts of take associated with the operation of the Blue Creek Wind Farm and includes measures to avoid, minimize, mitigate, and monitor the impacts of incidental take on the Indiana bat and the northern long-eared bat. The applicant will mitigate for take and associated impacts through one or more methods including restoration, if necessary, and permanent protection of documented maternity colony habitat and/or swarming habitat, and/or gating of a hibernaculum within the State of Ohio. Habitat mitigation, including any restored habitat, will occur on private land

and be permanently protected by a conservation easement, fee simple acquisition with deed restrictions, or another site protection instrument that provides an equivalent level of protection, and will be approved by the Service. Chapter 5 of the HCP describes the Conservation Plan, including details of avoidance and minimization measures and compensatory mitigation that will limit and mitigate for the take of Indiana bats and northern long-eared bats. Chapter 6 of the HCP describes Monitoring and Adaptive Management to ensure take stays within permitted levels and mitigation sites are maintained as suitable habitat for the Indiana bat and northern long-eared bat.

The Service is soliciting information regarding the adequacy of the HCP to avoid, minimize, mitigate, and monitor the proposed incidental take of the covered species and to provide for adaptive management. In compliance with section 10(c) of the ESA (16 U.S.C. 1539(c)), the Service is making the ITP application materials available for public review and comment as described above.

We invite comments and suggestions from all interested parties on the draft documents associated with the ITP application (HCP and HCP Appendices), and request that comments be as specific as possible. In particular, we request information and comments on the following topics:

1. Whether adaptive management, mitigation, and monitoring provisions in the proposed action alternative are sufficient;
2. Any threats to the Indiana bat and the northern long-eared bat that may influence their populations over the life of the ITP that are not addressed in the draft HCP or DEA;
3. Any new information on white-nose syndrome effects on the Indiana bat and

the northern long-eared bat; and

4. Any other information pertinent to evaluating the effects of the proposed action on the Indiana bat and the northern long-eared bat.

### **Alternatives in the Draft EA**

The DEA contains an analysis of four alternatives: (1) No Action alternative, in which the Service would not issue a permit to the applicant, and the project turbines would be feathered until wind speeds reach 6.9 m/s from a half-hour before sunset to a half-hour after sunrise during the entirety of the fall migration season (August 1 through October 31) and spring migration season (March 15 through May 15), under which conditions take of listed species is unlikely to occur; (2) the Applicant's Proposed Project alternative in which the Service would issue an ITP to authorize incidental take of Covered Species associated with the project's operations as described in the applicant's HCP. In this alternative, the project turbines would be feathered until wind speeds reach 3.0 m/s during the spring migration season and summer (April 1 through July 31) from a half-hour before sunset to a half-hour after sunrise, and during the fall migration season (August 1 through October 15) project turbines would be feathered until wind speeds reach 5.0 m/s when temperatures are greater than 10 degrees Celsius (°C), from a half-hour before sunset to a half-hour after sunrise. In this alternative, the applicant estimated take of Indiana and northern long-eared bats using an approach that addresses inherent uncertainty in take estimates by incorporating a 70 percent confidence bound around the mean estimate, and a 30 percent reduction in take from application of the proposed cut-in speed regime. Under this alternative, 4.39 Indiana bats per year, for a total of 154



Indiana bats over the 35-year permit term, and take of 2.96 northern long-eared bats per year, for a total of 103 northern long-eared bats over the 35-year permit term, would be permitted. To be consistent and comparable in our analysis of all NEPA alternatives, the Service used a simplified method to estimate take across this and all other alternatives, which generated a take estimate for this alternative of 2.5 Indiana bats per year, for a total of 87.5 Indiana bats over the permit term, and take of 1.6 northern long-eared bats per year, for a total of 57.7 northern long-eared bats over the permit term; (3) More Restrictive Operations alternative, in which the Service would issue an ITP for the HCP, but turbine operations would be different than the Applicant's Proposed Project. All turbines would be feathered when the ambient temperature is above 10°C based on a 5-minute rolling average from one half-hour before sunset to one half-hour after sunrise, during the spring migration season and summer (April 1 through July 31) up to 3.0 m/s, and during the fall migration season (August 1 through October 15) up to 6.5 m/s. In this alternative, take of 1.4 Indiana bats per year, for a total of 49 Indiana bats over the 35-year permit term, and take of 1 northern long-eared bat per year, for a total of 34.1 northern long-eared bats over the 35-year permit term, would be permitted; (4) Less Restrictive Operations alternative, in which the Service would issue an ITP for the HCP, but turbine operations would be different than the Applicant's Proposed Project. All turbines would be feathered when the ambient temperature is above 10°C based on a 5-minute rolling average from one half-hour before sunset to one half-hour after sunrise during the spring migration season and summer (April 1 through July 31) up to 3.0 m/s, and during the fall migration season (August 1 through October 15) up to 4.0 m/s. In this alternative, take of 2.6 Indiana bats per year, for a total of 91 Indiana bats over the 35-

year permit term, and take of 1.8 northern long-eared bats per year, for a total of 62.2 northern long-eared bats over the 35-year permit term, would be permitted. The quantity of mitigation needed to offset the impact of the taking and the level of effort of monitoring varies between the alternatives, although mitigation, monitoring, adaptive management, and funding assurances are components of all three action alternatives.

The DEA considers the direct, indirect, and cumulative effects of the alternatives, including any measures intended to minimize and mitigate such impacts. The DEA also identifies additional alternatives that were considered but were eliminated from analysis as detailed in section 2.4 of the DEA.

The Service invites comments and suggestions from all interested parties on the content of the DEA. In particular, information and comments regarding the following topics are requested:

1. The direct, indirect, or cumulative effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed; and
3. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

### **Public Comments**

You may submit your comments and materials related to the draft HCP, DEA, or other supporting documents by one of the methods listed in **ADDRESSES**. We request you send comments using only one of the methods described in **ADDRESSES**.

Comments and materials we receive, as well as documents associated with the notice, will be available for public inspection by appointment, during normal business hours, at the Ohio Ecological Services Field Office in Columbus, Ohio (see **FOR FURTHER INFORMATION CONTACT**). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### **Authority**

We provide this notice under section 10(c) of the ESA (16 U.S.C.1539(c)) and its implementing regulations (50 CFR 17.22) and the NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director.

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